

**IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA**

THREE RIVERS CONFECTIONS, LLC,	§	
	§	
Plaintiff,	§	Civil Action No. 2:12-cv-1089
	§	
v.	§	Chief Judge Joy Flowers Conti
	§	
CHRISTOPHER M. WARMAN t/d/b/a ART	§	
OF FUDGE and FUDGECO; and	§	
FUDGETOPIA, LLC,	§	
	§	
Defendants.	§	

**PLAINTIFF'S STIPULATION OF DISMISSAL OF REMAINING CLAIMS**

Plaintiff, Three Rivers Confections, LLC, respectfully submits this stipulation of dismissal of its remaining claims, and in support shows the following:

I.  
**BACKGROUND**

Three Rivers filed this lawsuit<sup>1</sup> primarily involving certain trademarks that were owned and registered by a third party, Fudgie Wudgie, L.P. that were acquired by Plaintiff. Shortly thereafter, Plaintiff filed its Amended Complaint<sup>2</sup> setting forth Counts I-XIII against the Warman Parties, including Count XII that sought declaratory judgment regarding the disputed trademarks. Plaintiff later filed its motion for partial summary judgment<sup>3</sup> seeking judgment with respect to Count XII. The Court granted Plaintiff's motion for partial summary judgment:<sup>4</sup>

Pursuant to the Declaratory Judgment Act, the Court hereby finds and declares that Three Rivers Confections, LLC is the lawful and rightful owner of the Fudgie Wudgie Marks as those marks are defined in the amended complaint, that defendant Christopher M. Warman has no property or other rights in the Fudgie Wudgie Marks, and that the May 26, 2012 and August 29, 2012 transfers of the Fudgie Wudgie Marks to Three Rivers Confections, LLC were lawful, valid, and proper.

---

<sup>1</sup> See Case 2:12-cv-01089-JFC, Document 1.

<sup>2</sup> See Case 2:12-cv-01089-JFC, Document 14.

<sup>3</sup> See Case 2:12-cv-01089-JFC, Documents 62-64, filed 09/05/14.

<sup>4</sup> See Case 2:12-cv-01089-JFC, Document 99, filed 07/29/15.

II.

**STIPULATION OF VOLUNTARY DISMISSAL OF REMAINING CLAIMS**

Plaintiff hereby files this stipulation of voluntary dismissal of the remaining claims:

- I. Federal Trademark Infringement
- II. Federal Trademark Counterfeiting
- III. Federal Trade Dress Infringement
- IV. Federal Unfair Competition
- V. Federal Trademark Dilution
- VI. Common Law Trademark Infringement and Unfair Competition
- VII. Trademark Dilution Under State Law
- VIII. False Advertising
- IX. Tortious Interference With Existing Business Relations
- X. Conversion
- XI. Unjust Enrichment
- XIII. Declaratory Judgment Regarding Trade Secrets

Per Fed. R. Civ. Pro. 41(a)(1)(A)(ii) & (a)(1)(B), these claims are dismissed without prejudice.

Dated: September 29, 2015.

Respectfully submitted,

|S| Electronically Signed by Phillip E. Cannatti  
Phillip Cannatti, pcannatti@lc-lawfirm.com  
*Admitted Pro Hac Vice*<sup>5</sup>  
LEHTOLA & CANNATTI, PLLC  
Providence Tower East  
5001 Spring Valley Road, Suite 400  
Dallas, Texas 75244  
(972) 383.1515 (Main Telephone)  
(972) 383.1519 (Direct Line)  
(866) 383.1507 (Facsimile)  
Attorney for Plaintiff

---

Christopher Warman, Individually & o/b/o Art  
of Fudge, Fudgeco, and Fudgetopia, LLC<sup>6</sup>  
193 Birch Court  
Pittsburgh, PA 15237

<sup>5</sup> See Case 2:12-cv-01089-JFC, Document 95, entered April 21, 2015

<sup>6</sup> Despite at least six (6) attempts to contact Defendants (pro se) by telephone, text and e-mail regarding signing of the dismissal, no response has been received. Thus, Three Rivers Confection's attorney is compelled to file this Stipulation with the court before the deadline set forth in the court's September 25, 2015 instruction to apprise the court with respect to the status of any and all remaining claims by Tuesday 9/29/2015 at 12:00 PM.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Plaintiff's Stipulation of Dismissal of Remaining Claims was electronically filed and has been served this 29<sup>th</sup> day of September, 2015 via first class U.S. mail, postage prepaid, on the following individual:

Christopher Warman, Individually & o/b/o Art of Fudge,  
Fudgeco, and Fudgetopia, LLC  
193 Birch Court  
Pittsburgh, PA 15237

/s David B. Spear  
David B. Spear